IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10997 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

U S PARMAR

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/08/2000

ORAL JUDGEMENT

#. I have heard Ms. Vasavadatta Bhatt learned counsel on behalf of the petitioner-Gujarat State Road Transport Corporation (Corporation for short) and Mr. JS Brahmbhatt learned counsel on behalf of the respondent.

#. The respondent workman was working as conductor with the Corporation. While on duty, on 20.8.1991 a surprise check was conducted by the Corporation and it is found that the respondent had not issued tickets to certain passengers thereby causing financial loss to the Corporation. Accordingly disciplinary proceedings was initiated and in the disciplinary proceedings the charge was found to be proved against the respondent and accordingly the Disciplinary Authority by its order dated 10.2.1983 directed that the pay of the respondent shall be reduced by 3 stages in the scale of pay. Against the said order of penalty, the respondent took up the matter with the authority for reference and the dispute was referred to the Industrial Tribunal, Baroda which registered the case as Ref.(IT) No.122 of 1988. The Industrial Tribunal, after hearing the parties set aside the order of penalty imposed by the Disciplinary Authority by its order dated 10.2.1983. Having felt aggrieved by the award of the Industrial Tribunal Baroda, the Corporation has filed the present petition for quashing the award of the Industrial Tribunal, Baroda dated 5.3.1993.

#. Ms. Vasavadatta Bhatt learned counsel on behalf of the petitioner submitted that the Tribunal has committed an error in quashing the order of penalty imposed by the Disciplinary Authority. It is submitted by the learned counsel on behalf of the petitioner that the Tribunal has accepted the explanation of the respondent that because the passengers were poor and they had no capacity to pay the bus fare, he did not realise any bus fare from them. The learned counsel on behalf of the petitioner submitted that this plea was not found to be correct by the officers of the Corporation who conducted the checking on 20.8.1981. It was found by the officers that the respondent did not issue tickets to the passengers. The statements of the passengers were recorded by the checking party and the same were submitted to the Industrial Tribunal . Inspite of this evidence, the Tribunal has accepted the explanation of the respondent workman that because of poverty of the passengers he did not collect the bus fare from them. It is further submitted by the learned counsel on behalf of the petitioner that such pleas are always taken by the conductors when they are caught by the inspecting team. Accordingly the learned counsel on behalf of the petitioner submitted that the Industrial Tribunal has committed an error in accepting the explanation offered by the respondent and thereby quashing the order of

penalty imposed on the respondent. Learned counsel on behalf of the petitioner further submitted that if such a misconduct of the respondent is not dealt with seriously, then the respondent will indulge in misappropriating public money. Mr. Brahmbhatt learned counsel on behalf of the respondent submitted that the respondent has retired from service on 30.4.1994 and because of the pendency of this case for more than seven years, the petitioner is not getting the financial benefits which he is entitled to get under the judgment and award of the Tribunal. Learned counsel on behalf of the respondent further submitted that the Tribunal has not committed any error in accepting the explanation of the respondent that because of poverty of the passengers respondent did not collect the bus fare. I do not agree with the statement of the learned counsel on behalf of the respondent. The respondent has been engaged by the Corporation for collecting fare from the passengers and in case any passenger is unable to pay any fare, he should not have allowed such passenger to travel in the bus. Therefore, it cannot be said that there was no misconduct on the part of the respondent.

#. Considering the submissions of the learned counsel of both the sides I am of the view that the Industrial Tribunal has taken a too liberal view of the offence alleged to have committed by the respondent. However, considering the fact that the respondent has already retired from service and the offence alleged to have been committed by the respondent is not of very serious nature, I am of the view that withholding of one increment with cumulative effect will meet the ends of justice. Accordingly the judgment and award of the Industrial Tribunal, Baroda passed in Ref.(IT) No. 122 of 1988 on 5.3.1993 is modified to the extent that one increment with cumulative effect shall be withheld from the pay of the respondent. The respondent be given the financial benefits available to him within a period of four weeks from the date of receipt of this order. With the aforesaid modification the petition is allowed in part. Rule is made absolute to the aforesaid extent. No order as to costs.

(P.K.Sarkar.J)

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